

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1117 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAJENDRAKUMAR AMBALAL PATEL

Versus

DISTRICT MAGISTRATE

Appearance:

M/S THAKKAR ASSOC. for Petitioner

MR HL TRIVEDI AGP for Respondent No. 1 to 3

MR BT RAO for Respondent No. 4

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 17/06/98

ORAL JUDGEMENT

The petitioner by way of this petition under Article 226 of the Constitution of India challenges the order of detention dated 3.1.1998 passed by the District Magistrate, Anand under section 3(2) of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980.

In the grounds of detention supplied on the same day to the petitioner, wherein number of allegations have been made against the petitioner regarding the disposal of wheat without entering the same in the godown register and/or stock register. For the disposal of the petition, it is not necessary to re-narrate the facts. After considering the allegations, the District Magistrate was of the view that to preventing the detenu acting in any manner prejudicial to the maintenance of supply of the commodities essential to the community, found it necessary to detain the detenu and, therefore, the petitioner is detained. Mr Prajapati learned advocate for the petitioner has raised number of contentions, however, it is not necessary to deal with each one of them as the petition can be disposed of on the first contention that the detenu was not supplied copy of the Godown Register even though the Detaining Authority has placed reliance on it. Mr Prajapati submitted that the order of detention vitiates on the ground that the relevant document was withheld with the result that the petitioner could not make effective representation. My attention is invited to the ground no. 10, wherein it is alleged that the petitioner lifted stock of 20 bags of wheat from the Government Godown which is not shown in the stock register. Reading the said ground, it is clear that on 17.12.1997 the petitioner lifted the stock of 20 bags of wheat and the necessary entry was made in the godown register, however, the copy of the relevant abstract of the Godown Register is not supplied which is clear from the documents supplied to the petitioner alongwith the grounds of detention. There is no dispute to the fact that the copy of abstract of the godown register is not supplied to the petitioner. Mr HL Jani learned AGP however submitted that non-supply of this document will not cause any prejudice to the petitioner as the petitioner himself as admitted the lifting of 20 bags of wheat in his statement dated 19.12.1997. I am not satisfied with the submission of Mr Jani. Assuming that the petitioner has admitted the withdrawal of 20 bags of wheat in his statement dated 19.12.1997, but the said statement is subsequent to the withdrawal of wheat on 17.12.1997. If the copy of the abstract of the godown register was given, the petitioner could have explained the same. Having not done so, I am of the opinion that the petitioner is denied his right to make effective representation and, therefore, the continued detention of the petitioner is also illegal.

In the result, the petition is allowed. The impugned order of detention dated 3.1.1998 is set aside. The petitioner-detenu is ordered to be released forthwith

if not required for any other lawful reason. Rule made
absolute with no order as to costs.
